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PATENT
Customer No. 22,852
Attorney Docket No. 05788.0339-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re National Stage of International Application No.)
PCT/EP2002/008383 under 35 U.S.C. 371 of:)
Guojun DAI, et al.) Group Art Unit: 3663
Application No.: 10/522,246) Examiner: Eric Boldt
Filed: August 5, 2005) Confirmation No.: 8809
PCT Filing Date: July 26, 2002)
For: OPTICAL FIBER FOR RAMAN)
AMPLIFICATION)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT AND SPECIES ELECTION

In a restriction requirement dated May 3, 2006, the Examiner required restriction under 35 U.S.C. §§ 121 and 372 between:

- Group I: Claims 29-43, drawn to a Raman Amplifier;
- Group II: Claims 44-58, drawn to an optical fiber; and
- Group III: Claim 59, drawn to a method of preparing a glass composition.

The restriction requirement is respectfully traversed. To be fully responsive to the restriction requirement, however, Applicants elect, with traverse, to prosecute Group I, claims 29-43.

Applicants traverse the restriction requirement on the grounds that the Examiner has not met his burden to justify a restriction requirement. The Examiner has argued

the three inventions do not relate to a single general inventive concept. However, the Examiner has not provided any analysis to support this conclusion. Applicants disagree with the Examiner's unsupported assertion that the claims lack the same or corresponding special technical features, as evidenced by the applicability of the species election to all the three Groups.

Upon election of either Group I, II, or III, the Examiner required an election of species under PCT Rule 13.1. Specifically, the Examiner required an election of a single disclosed species A of the first metal oxide of the optical fiber composition from: Nb, W, Ti, Ta, Mo; a single disclosed species B of the second metal oxide from Nb, W, Ti, Pb, Sb, In, Bi, La, Ta, Mo, Zr, Hf, Cd, Gd, La, Ba; and a single disclosed species C of the tellurite glass composition metal oxide (as listed in claim 6) from a metal oxide of: Y, Sc, Al, Ga, Ge, P, Li, Na, K, Rb, Cs, Mg, Ca, Sr, Be, B, Zn.

The species election is respectfully traversed. To be fully responsive to the election requirement, however, Applicants elect, with traverse, to prosecute:

Nb as the first metal oxide of the optical fiber composition;

W as the second metal oxide of the optical fiber composition; and

Al as the further metal oxide of the tellurite glass composition.

Applicants again traverse the election requirement on the grounds that the Examiner has not met his burden to justify an election. The Examiner has argued with respect to each of the three sets of species that they do not relate to a single general inventive concept. However, the Examiner has not provided any analysis to support this conclusion.

Applicants note that claims 29 to 43 read on the elected species. Applicants also note that in accordance with M.P.E.P. § 1893.03(d) the claims will not be restricted to a single species if a generic claim is finally held to be allowable.

In view of the foregoing remarks, Applicants respectfully submit that both the restriction and election requirements are in error and request that the requirements be withdrawn. Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 2, 2006

By: 
Anthony Hartmann
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